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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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24737	7590	07/08/2008		
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BRIARCLIFF MANOR, NY 10510				
EXAMINER				
PATEL, KAMINI B				
ART UNIT		PAPER NUMBER		
2114				
MAIL DATE		DELIVERY MODE		
07/08/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/564,910

Applicant(s)

IJTSM A ET AL.

Examiner

KAMINI PATEL

Art Unit

2114

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 17 January 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-9 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-9 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 January 2006 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/8508)
- Paper No(s)/Mail Date 08/03/2007
- 4) ☐ Interview Summary (PTO-413)
- Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. Claims 1-9 are pending.
2. Claims 1-9 are rejected.

Information Disclosure Statement

3. The Information Disclosure Statement (IDS) submitted on 08/03/2007 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the IDS statement is being considered by the examiner.

Drawings

4. Figures 3a and 3b should be designated by a legend such as --Prior Art-- because only that which is old is illustrated. See MPEP § 608.02(g). Corrected drawings in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Priority

5. Receipt is acknowledged of a certified copy of the application referred to in the oath or declaration or in an application data sheet. If this copy is being filed to obtain the benefits of the foreign filing date under 35 U.S.C. 119(a)-(d), applicant should also

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disclose such priority as required by 35 U.S.C. 119(b) in the first sentence of the specification. Specification should be amended to include the foreign priority information.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

6. ***Claim 9*** is rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claim 9 is non-statutory because it recites a computer program per se representing functional descriptive material, which makes claim a computer program per se and non-statutory.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Deyring (US Patent No. 5,075,804, referred herein after Deyring) in view of Hitachi

(European patent application, EP 0 971 349 A2) and Ando et al. (US Patent No. 6,530,037, referred herein after Ando).

As per claim 1, Deyring discloses a device (Fig. 1, disks 53) for recording information in blocks (Fig. 1, tracks 54) having logical addresses (Fig. 2A, logical block No. is logical address), which device comprises

- ***recording means (21,22,25) for recording marks in a track on a record carrier representing the information (Col. 1, lines 0-65), and***
- ***control means (20) (fig. 1, element 12) for controlling the recording by locating each block at a physical address in the track, the control means comprising***
- ***defect management means (31) for translating the logical addresses into the physical addresses and vice versa (right side of Fig. 3A, col. 4, lines 49-53) in dependence of defect management information (e.g. a defect list) in a defect management area according to a predefined recording format (Fig. 2A and Fig. 2B are example of defined disk format), the defect management information including defect entries indicating locations for replacing defective physical addresses (Col. 3, lines 39-43, where operating table keeps the defect entries and defective locations),***

Deyring does not specifically discloses ***a read-only state of the record carrier being obtainable via a no-replacement state indicated by substantially none of***

the defect entries being free for use, and read-only control means (32) for setting the record carrier to the read-only state by reading original replacement information indicating a writable state from the defect management area, the original replacement information at least including at least one defect entry being free for use, modifying the defect management information to the no-replacement state.

However, in the analogous art, Hitachi discloses the above claim limitations.

(Hitachi, Fig. 3, step 11, [0017], where "setting the region to a recording prohibiting region" is interpreted as setting record carrier to the read-only state as claimed and all vacant regions are occupied is interpreted as "none of the defect entries being free for use.

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention to incorporate teaching of Hitachi's method to Deyring's method because one of the ordinary skill in the art would have been motivated to prevent the defect region being used to record data (Hitachi, [0017]).

Hitachi does not specifically disclose ***storing the original replacement information in a hidden area;***

However, in the analogous art, Ando discloses the above claim limitations. (Ando, Col. 61, lines 8-12, table 7).

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention to incorporate teaching of Ando's method to Deyring's and Hitachi's method because one of the ordinary skill in the art would have been motivated so

that original information will not overwritten and can be used to replace defect entries.

As per claim 2, claim 1 is incorporated and Hitachi discloses wherein the read-only control means (32) include re-open means (33) for resetting the record carrier from the read-only state, modifying the defect management information to the writable state in dependence of the original replacement information;

(Hitachi, Fig. 3, step 11, [0017]);

Hitachi does not specifically disclose ***by retrieving the original replacement information from the hidden location,***

However, in the analogous art, Ando discloses the above claim limitations. (Ando, Col. 61, lines 8-12, table 7).

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention to incorporate teaching of Ando's method to Deyring's and Hitachi's method because one of the ordinary skill in the art would have been motivated so that original information will not overwritten and can be used to replace defect entries.

As per claim 3, claim 1 is incorporated and Hitachi discloses wherein the defect entries are arranged in defect tables, and the read-only control means (32) are arranged for storing a copy of the defect tables as the original replacement information., (Hitachi, Fig. 3, [0017]);

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Hitachi does not specifically disclose *in the hidden location*;

However, in the analogous art, Ando discloses the above claim limitations. (Ando, Col. 61, lines 8-12, table 7).

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention to incorporate teaching of Ando's method to Deyring's and Hitachi's method because one of the ordinary skill in the art would have been motivated so that original information will not overwritten and can be used to replace defect entries.

As per claim 4, claim 1 is incorporated and Ando discloses wherein the defect management information comprises a main information packet having pointers to the defect tables, and the read-only control means (32) are arranged for generating a secondary information packet having pointers to the copy of the defect tables in the hidden location. (col. 17, lines 13-23, col. 20, lines 13-23).

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention to incorporate teaching of Ando's method to Deyring's and Hitachi's method because one of the ordinary skill in the art would have been motivated so that original information will not overwritten and can be used to replace defect entries.

As per claim 5, claim 1 is incorporated and Ando discloses wherein the read-only control means (32) are arranged for storing the original replacement information in the hidden location having a predefined position related to the defect management information, in particular related to a position of the defect entries in the defect management area. (col. 17, lines 13-23, col. 20, lines 13-23).

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention to incorporate teaching of Ando's method to Deyring's and Hitachi's method because one of the ordinary skill in the art would have been motivated so that original information will not overwritten and can be used to replace defect entries.

As per claim 7, claim 1 is incorporated and Ando discloses wherein the read-only control means (32) are arranged for storing the original replacement information in a file as the hidden location. (Col. 61, lines 8-12, table 7).

Therefore it would have been obvious to the one of ordinary skill in the art at the time of invention to incorporate teaching of Ando's method to Deyring's and Hitachi's method because one of the ordinary skill in the art would have been motivated so that original information will not overwritten and can be used to replace defect entries.

Claim 7 is rejected under the same reasons set forth in rejection of claim 1.

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Claim 8 is a method claim corresponding to the device claim 1 and is therefore rejected under the same reasons set forth in rejection of claim 1.

Claim 9 is a computer program product claim corresponding to the device claim 1 and is therefore rejected under the same reasons set forth in rejection of claim 1

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. See form 892.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KAMINI PATEL whose telephone number is (571)270-3902. The examiner can normally be reached on Monday to Thursday, 6am-4:30pm EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Scott Baderman can be reached on 571-272-3644. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Scott T Baderman/
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/Kamini Patel/
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